



UNITED STATES PATENT AND TRADEMARK OFFICE

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UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 13

In re Application of
John R. Fredlund *et al*
Application No. 09/213,169
Filed: December 17, 1998
Attorney Docket No. 78685F-P

: DECISION ON PETITION

This is a decision on the second renewed petition filed on August 6, 2002, by which petitioners again request withdrawal of the holding that this application stands abandoned for failure to file a timely reply to the Office letter dated June 5, 2001. No fee is required for the renewed petition.

The renewed petition is granted.

Petitioners have accompanied the second renewed petition by an acceptable terminal disclaimer. Therefore, the original petition, filed on April 4, 2002 and entered as paper No. 8 will be considered on the merits notwithstanding that it was filed more than two months after the mailing date of the Notice of Abandonment. See 37 CFR 1.181(f) and MPEP § 711.03(c).

A review of paper No. 8 shows that petitioner allege that a reply to the office letter in question was in fact filed, and that the reply was timely filed by reason of a concurrently filed petition for a five month extension of time together with the fee therefor. These allegations are established in a manner which satisfies 37 CFR 1.10(e); that is, petitioners have included copies of the papers which have affixed thereto an "Express Mail" label number, and a copy of the "Express Mail label showing a date of deposit (date-in) of November 30, 2000.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the Head Supervisory Applications Examiner for the following actions:

1. Charge Deposit Account No. 05-0225 in the amount of \$110.00 for recording the terminal disclaimer attached to paper No. 12.
2. Enter the Continued Prosecution Application (CPA) papers and extension of time attached to paper No. 8. However, all fees connected with those papers have already been paid, and no additional fees should be charged. Note that the CPA must be processed for pre-grant publication.
3. Forward the file to the Paralegal Specialist to record the terminal disclaimer attached to paper No. 12.

Thereafter, the application will be forwarded to the examiner for action on the CPA filed on November 30, 2000. Before acting on the file, the examiner will contact counsel in this case because the file does not include any amendment filed on June 27, 2000. Petitioners should note that absent a copy of that amendment and evidence of its filing, it cannot be entered pursuant to the CPA request.

PETITION GRANTED.


E. Rollins-Cross, Director, Patent
Examining Groups 3710 and 3720

Attachment

Patent Legal Staff
Eastman Kodak Company
343 State Street
Rochester, NY 14650-2201

The petition and attached papers filed on August 6, 2002 (certificate of mailing dated July 30, 2002) have not been made part of the permanent records of the United States Patent and Trademark Office (Office) for this application (37 CFR 1.52(a)) because of damage from the United States Postal Service irradiation process. The above-identified papers, however, were not so damaged as to preclude the USPTO from making a legible copy of such papers. Therefore, the Office has made a copy of these papers, substituted them for the originals in the file, and stamped that copy:

**COPY OF PAPERS
ORIGINALLY FILED**

If applicant wants to review the accuracy of the Office's copy of such papers, applicant may either inspect the application (37 CFR 1.14(d)) or may request a copy of the Office's records of such papers (*i.e.*, a copy of the copy made by the Office) from the Office of Public Records for the fee specified in 37 CFR 1.19(b)(4). Please do **not** call the Technology Center's Customer Service Center to inquiry about the completeness or accuracy of Office's copy of the above-identified papers, as the Technology Center's Customer Service Center will **not** be able to provide this service.

If applicant does not consider the Office's copy of such papers to be accurate, applicant must provide a copy of the above-identified papers (except for any U.S. or foreign patent documents submitted with the above-identified papers) with a statement that such copy is a complete and accurate copy of the originally submitted documents. If applicant provides such a copy of the above-identified papers and statement within **THREE MONTHS** of the mail date of this Office action, the Office will add the original mailroom date and use the copy provided by applicant as the permanent Office record of the above-identified papers in place of the copy made by the Office. Otherwise, the Office's copy will be used as the permanent Office record of the above-identified papers (*i.e.*, the Office will use the copy of the above-identified papers made by the Office for examination and all other purposes). This three-month period is not extendable.